

## HOUSE BILL NO. 217

INTRODUCED BY D. ROBERTS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A STATEMENT, AFFIRMATION, GESTURE, OR CONDUCT EXPRESSING APOLOGY, FAULT, SYMPATHY, COMMISERATION, CONDOLENCE, COMPASSION, OR BENEVOLENCE RELATING TO THE PAIN, SUFFERING, OR DEATH OF A PERSON THAT IS MADE TO THE PERSON, THE PERSON'S FAMILY, OR A FRIEND OF THE PERSON OR OF THE PERSON'S FAMILY IS INADMISSIBLE AS EVIDENCE OF AN ADMISSION OF LIABILITY IN A CIVIL ACTION FOR MEDICAL MALPRACTICE; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Statement of apology, sympathy, or benevolence -- not admissible as evidence of admission of liability for medical malpractice.** (1) A statement, affirmation, gesture, or conduct expressing apology, fault, sympathy, commiseration, condolence, compassion, or a general sense of benevolence relating to the pain, suffering, or death of a person that is made to the person, the person's family, or a friend of the person or of the person's family is not admissible as evidence of an admission of liability in a civil action for medical malpractice.

(2) As used in this section, the following definitions apply:

(a) "Apology" means a communication that expresses regret or asks for a pardon for a fault or offense.

(b) "Benevolence" means an act that conveys a sense of compassion or commiseration emanating from humane impulses.

(c) "Communication" means a statement, writing, or gesture.

(d) "Family" means the spouse, parent, spouse's parent, grandparent, stepmother, stepfather, child, stepchild, grandchild, sibling, half-sibling, or adopted children of a parent of an injured party.

**NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 26, chapter 1, and the provisions of Title 26, chapter 1, apply to [section 1].

**NEW SECTION. Section 3. Applicability.** [This act] applies to causes of action arising after [the

1 effective date of this act].

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